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Chief Clerk of the House

FILED MAR 21 2005

By: 

H..B. No. 3484

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties,
operation, and financing of the Val Verde County Groundwater
Conservation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

(1) "Board" means the board of directors of the
district.

(2) "District" means the Val Verde County Groundwater
Conservation District.

SECTION 2. CREATION. A groundwater conservation district,
to be known as the Val Verde County Groundwater Conservation
District, is created in Val Verde County, subject to approval at a
confirmation election under Section 7 of this Act.

SECTION 3. FINDINGS OF BENEFIT. (a) The district is
created to serve a public use and benefit.

(b) The district is created under and is essential to
accomplish the purposes of Section 59, Article XVI, Texas
Constitution.

(c) All of the land and other property included within the
boundaries of the district will be benefited by the works and
projects that are to be accomplished by the district under powers
conferred by Section 59, Article XVI, Texas Constitution.

SECTION 4. CONTINUING PROVISIONS OF DISTRICT. Subtitle H,

1 Title 6, Special District Local Laws Code, is amended by adding
2 Chapter 8804 to read as follows:

3 CHAPTER 8804. VAL VERDE COUNTY GROUNDWATER

4 CONSERVATION DISTRICT

5 SUBCHAPTER A. GENERAL PROVISIONS

6 Sec. 8804.001. DEFINITIONS. In this chapter:

7 (1) "Agricultural use" means any use or activity
8 involving agriculture, including irrigation.

9 (2) "Agriculture" means any of the following
10 activities:

11 (A) cultivating the soil to produce crops for
12 human food, animal feed, or planting seed or for the production of
13 fibers;

14 (B) the practice of floriculture, viticulture,
15 silviculture, and horticulture, including the cultivation of
16 plants in containers of nonsoil media, by a nursery grower;

17 (C) raising, feeding, or keeping animals, other
18 than fish, for breeding purposes or for the production of food or
19 fiber, leather, pelts, or other tangible products having a
20 commercial value;

21 (D) planting cover crops, including cover crops
22 cultivated for transplantation, or leaving land idle for the
23 purpose of participating in any governmental program or normal crop
24 or livestock rotation procedure;

25 (E) wildlife management; and

26 (F) raising or keeping equine animals.

27 (3) "Board" means the board of directors of the

1 district.

2 (4) "Director" means a member of the board.

3 (5) "District" means the Val Verde County Groundwater
4 Conservation District.

5 (6) "Domestic use" means use in the district of water
6 by a person owning the well from which the water is withdrawn and by
7 that person's household for:

8 (A) drinking, washing, or culinary purposes;

9 (B) irrigation of lawns;

10 (C) irrigation of a family garden or orchard the
11 produce of which is for household consumption only;

12 (D) swimming pools, decorative ponds, or
13 fountains on the person's property; and

14 (E) watering of domestic animals not raised,
15 maintained, or sold for commercial purposes.

16 (7) "Political subdivision" means a county,
17 municipality, or other body politic or corporate of the state,
18 including a district or authority created under Section 52, Article
19 III, or Section 59, Article XVI, Texas Constitution, a state
20 agency, or a nonprofit water supply corporation created under
21 Chapter 67, Water Code.

22 Sec. 8804.002. NATURE OF DISTRICT. The district is a
23 groundwater conservation district in Val Verde County created under
24 Section 59, Article XVI, Texas Constitution.

25 Sec. 8804.003. DISTRICT PURPOSE. The district is created
26 to:

27 (1) provide for the protection, recharging, and

1 prevention of waste of groundwater in the Val Verde County area;

2 (2) control subsidence caused by the withdrawal of
3 water from the groundwater reservoirs in the Val Verde County area;

4 (3) regulate the transport of groundwater out of the
5 boundaries of the district;

6 (4) maintain at least the minimum spring flow of San
7 Felipe Springs based on the 1996 San Felipe Springs flow; and

8 (5) manage the issuance of permits for the transfer of
9 groundwater by:

10 (A) requiring groundwater availability models of
11 permit applicants; and

12 (B) using sustainable yield calculations to
13 manage withdrawal of groundwater to protect the aquifer and springs
14 in the district.

15 [Sections 8804.004-8804.050 reserved for expansion]

16 SUBCHAPTER B. TERRITORY

17 Sec. 8804.051. BOUNDARIES. The boundaries of the district
18 are coextensive with the boundaries of Val Verde County, Texas.

19 [Sections 8804.052-8804.100 reserved for expansion]

20 SUBCHAPTER C. BOARD OF DIRECTORS

21 Sec. 8804.101. BOARD. The board consists of seven
22 directors.

23 Sec. 8804.102. METHOD OF ELECTING DIRECTORS: COMMISSIONERS
24 PRECINCTS. (a) The directors of the district shall be elected
25 according to the commissioners precinct method as provided by this
26 section.

27 (b) Three directors shall be elected by the voters of the

1 entire district, and one director shall be elected from each county
2 commissioners precinct by the voters of that precinct.

3 (c) Except as provided by Subsection (e), to be eligible to
4 be a candidate for or to serve as director at large, a person must be
5 a registered voter in the district. To be a candidate for or to
6 serve as director from a county commissioners precinct, a person
7 must be a registered voter of that precinct.

8 (d) A person shall indicate on the application for a place
9 on the ballot:

10 (1) the precinct that the person seeks to represent;
11 or

12 (2) that the person seeks to represent the district at
13 large.

14 (e) When the boundaries of the county commissioners
15 precincts are redrawn after each federal decennial census to
16 reflect population changes, a director in office on the effective
17 date of the change, or a director elected or appointed before the
18 effective date of the change whose term of office begins on or after
19 the effective date of the change, shall serve in the precinct from
20 which elected or appointed even though the change in boundaries
21 places the person's residence outside the precinct from which the
22 person was elected or appointed.

23 Sec. 8804.103. ELECTION DATE. The district shall hold an
24 election to elect the appropriate number of directors on the
25 uniform election date prescribed by Section 41.001, Election Code,
26 in November of each even-numbered year.

27 Sec. 8804.104. TERMS. (a) Directors serve staggered

1 four-year terms.

2 (b) A director may serve for consecutive terms.

3 Sec. 8804.105. COMPENSATION. (a) A director is not
4 entitled to receive fees of office for performing the duties of a
5 director.

6 (b) The board may authorize a director to receive
7 reimbursement for the director's reasonable expenses incurred
8 while engaging in activities outside the district on behalf of the
9 board.

10 [Sections 8804.106-8804.150 reserved for expansion]

11 SUBCHAPTER D. POWERS AND DUTIES

12 Sec. 8804.151. POWERS AND DUTIES. Except as otherwise
13 provided by this chapter, the district has all of the rights,
14 powers, privileges, authority, functions, and duties provided by
15 the general law of this state, including Chapter 36, Water Code,
16 applicable to groundwater conservation districts created under
17 Section 59, Article XVI, Texas Constitution.

18 Sec. 8804.152. PERMIT TO TRANSFER GROUNDWATER. (a) The
19 district by rule shall:

20 (1) require a person to obtain a permit from the
21 district to transfer groundwater out of the district; and

22 (2) regulate the terms of a transfer of groundwater
23 out of the district.

24 (b) The district shall develop rules under this section
25 that:

26 (1) are consistent with the requirements of Section
27 36.122, Water Code;

1 (2) manage the issuance of permits using a sustainable
2 yield calculation in which the sustainable yield of the aquifer is
3 measured by calculating the average water withdrawal during a
4 calendar year and determining that the average water withdrawal
5 does not exceed the long-term recharge as determined by the Texas
6 Water Development Board under Section 8804.161; and

7 (3) maintain at least the 1996 minimum spring flow of
8 San Felipe Springs and at least the minimum flows of all other
9 springs in the district as determined by the initial groundwater
10 study conducted under Section 8804.161.

11 (c) The district shall use a groundwater availability
12 model, and not historical use, as the basis for issuing permits.

13 (d) A permit issued under this section, except for a permit
14 issued under Section 8804.153(a), does not establish historical
15 use.

16 Sec. 8804.153. PERMITS FOR USE SOLELY INSIDE DISTRICT. (a)
17 The district shall grant the City of Del Rio a permit in the city's
18 name that authorizes the city to pump from all city wells a stated
19 cumulative amount of not less than 15,000 acre-feet of water
20 annually for use solely inside the district. If the study performed
21 under Section 8804.162 finds that sufficient groundwater is
22 available, the district shall amend the city's permit to authorize
23 the city to pump from all city wells a stated cumulative amount of
24 not less than 20,000 acre-feet of water annually for use solely
25 inside the district. This subsection does not limit the City of Del
26 Rio's right to apply for or obtain a permit to transfer groundwater
27 under Section 8804.152.

1 (b) The district shall grant to a nonprofit rural water
2 supply corporation, water district, or other political subdivision
3 a permit that authorizes the water supply corporation, water
4 district, or other political subdivision to pump from its wells
5 annually a volume of water that is not less than the volume equal to
6 twice its greatest water usage in a calendar year before the date
7 the district is confirmed at an election held for that purpose, for
8 use solely inside the district.

9 Sec. 8804.154. AGRICULTURAL USE PERMIT. (a) Except as
10 provided by Section 8804.155, the district shall grant any
11 application for an agricultural use permit for any well that is used
12 solely for agricultural use inside the district. The district
13 shall issue an agricultural use permit in an amount that is not less
14 than five acre-feet of water per acre actually cultivated per year.
15 An agricultural use permit is nontransferable and expires on the
16 date the well ceases to be used solely for agricultural use inside
17 the district.

18 (b) This section does not limit the well owner's right to
19 apply for or obtain a permit to transfer groundwater under Section
20 8804.152.

21 Sec. 8804.155. LIMITATION ON WELL PERMIT REQUIREMENTS. (a)
22 The district may not require a person to obtain a permit from the
23 district for:

24 (1) a well used solely for domestic use or for
25 providing water for livestock or poultry on a tract of land smaller
26 than 10 acres that is either drilled, completed, or equipped so that
27 it is incapable of producing more than 30,000 gallons of

1 groundwater a day;

2 (2) a well used solely for domestic use or for
3 providing water for livestock or poultry on a tract of land 10 acres
4 or larger that is either drilled, completed, or equipped so that it
5 is incapable of producing more than 50,000 gallons of groundwater a
6 day; or

7 (3) any well in use before the date the district is
8 confirmed at an election held for that purpose and used solely for
9 agricultural use.

10 (b) The district shall require a permit for a well described
11 by Subsection (a)(3) that ceases to be used solely for agricultural
12 use. The district also may impose a fee on the well as provided by
13 Section 8804.202(c)(1)(A).

14 (c) An owner of a well described by this section shall
15 register the well with the district.

16 (d) A well owner is entitled to a permit exemption under
17 this section only if water from the well is used solely inside the
18 district. If water from a well is not used solely inside the
19 district, the well owner must obtain a permit.

20 Sec. 8804.156. REPLACEMENT WELL. (a) A new well that
21 replaces an abandoned or decommissioned well is subject to the same
22 permit requirements or exemption as the well it replaces if the
23 replacement well:

24 (1) is used solely for the same purposes as the well it
25 replaces; and

26 (2) serves the same area as the well it replaces.

27 (b) The district may not require a person who repairs or

1 modifies a well to obtain a permit for that well if the well:

2 (1) is exempt under Section 8804.155; and

3 (2) continues to be used solely for agricultural use.

4 Sec. 8804.157. PROHIBITION ON DISTRICT PURCHASE, SALE,
5 TRANSPORT, OR DISTRIBUTION OF WATER. The district may not
6 purchase, sell, transport, or distribute surface water or
7 groundwater for any purpose.

8 Sec. 8804.158. PROHIBITION ON DISTRICT USE OF EMINENT
9 DOMAIN. The district may not exercise the power of eminent domain.

10 Sec. 8804.159. REGIONAL COOPERATION. To provide for
11 regional continuity, the district shall:

12 (1) participate as needed in coordination meetings
13 with other groundwater districts in its designated management area;

14 (2) coordinate the collection of data with other
15 groundwater conservation districts in its designated management
16 area in such a way as to achieve relative uniformity of data type
17 and quality;

18 (3) coordinate efforts to monitor water quality with
19 other groundwater conservation districts in its designated
20 management area, local governments, and state agencies;

21 (4) provide groundwater level data to other
22 groundwater conservation districts in its designated management
23 area;

24 (5) investigate any groundwater or aquifer pollution
25 with the intention of locating its source;

26 (6) notify other groundwater conservation districts
27 in its designated management area and all appropriate agencies of

1 any groundwater pollution detected; and

2 (7) include other groundwater conservation districts
3 in its designated management area on the mailing lists for district
4 newsletters, seminars, public education events, news articles, and
5 field days.

6 Sec. 8804.160. WATER CONSERVATION INITIATIVE. The district
7 may create a water conservation initiative as described by Section
8 11.32, Tax Code.

9 Sec. 8804.161. TEXAS WATER DEVELOPMENT BOARD STUDY. At
10 least once every 10 years and at any other time the board considers
11 necessary to implement Section 8804.152(b)(2), the staff of the
12 Texas Water Development Board shall make a complete study of the
13 groundwater in the district and determine:

14 (1) the water level;

15 (2) the rates and amounts of groundwater withdrawal;

16 (3) the rates and amounts by which the groundwater is
17 recharged;

18 (4) rainwater levels; and

19 (5) other information relating to the sustainable
20 yield of the aquifer under Section 8804.152(b)(2).

21 Sec. 8804.162. LOCAL STUDY OF GROUNDWATER AVAILABILITY.

22 (a) Except as provided by Subsection (b), not later than the 10th
23 anniversary of the date on which the district is confirmed, the
24 district shall complete a study to determine whether there is
25 sufficient groundwater to amend the permit granted under Section
26 8804.153(a) to the City of Del Rio as authorized by Section
27 8804.153(a).

1 (b) In place of the district's study, the City of Del Rio may
2 perform a study of the groundwater availability in the district and
3 the board may rely on the city's study if the city's study meets the
4 criteria of the Texas Water Development Board study required by
5 Section 8804.161.

6 Sec. 8804.163. MORATORIUM ON TRANSFER PERMITS. (a) The
7 district shall impose a moratorium on the issuance of permits for
8 the transfer of groundwater during each period set aside to conduct
9 and consider a groundwater study under Section 8804.161.

10 (b) Except for the initial study, the district by rule shall
11 specify the length of the period set aside to conduct and consider
12 groundwater studies under Section 8804.161.

13 (c) The district may not issue a permit for the transfer of
14 groundwater until:

15 (1) an initial groundwater study under Section
16 8804.161 is completed and submitted to the district;

17 (2) the district determines the amount of groundwater
18 needed to maintain the minimum flow of each spring in the district;
19 and

20 (3) the district establishes by rule the amount of
21 groundwater reserved solely to maintain minimum flows for all
22 springs in the district.

23 [Sections 8804.164-8804.200 reserved for expansion]

24 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

25 Sec. 8804.201. LIMITATION ON TAXES. (a) The district may
26 not levy ad valorem taxes at a rate that exceeds five cents on each
27 \$100 of assessed valuation of taxable property in the district.

1 (b) The district may not levy ad valorem taxes at a rate that
2 exceeds 2-1/2 cents on each \$100 of assessed valuation of taxable
3 property in the district for the first two tax years after the
4 district's confirmation.

5 (c) Not later than the seventh anniversary of the date on
6 which the district is confirmed, the district shall maintain in
7 reserve at all times not less than six months and not more than two
8 years of operating capital. If the district's reserve operating
9 capital at any time exceeds the amount needed to operate the
10 district for two years, the district must:

11 (1) reduce taxes so as not to collect more revenue than
12 is needed to operate the district; or

13 (2) perform a recharge project with the excess
14 revenue.

15 Sec. 8804.202. FEES. (a) The board by rule may impose
16 reasonable fees on each well:

17 (1) for which a permit is issued by the district; and

18 (2) that is not exempt from district regulation.

19 (b) A production fee may be based on:

20 (1) the size of column pipe used by the well; or

21 (2) the amount of water actually withdrawn from the
22 well, or the amount authorized or anticipated to be withdrawn.

23 (c) The board shall base the initial production fee on the
24 criteria listed in Subsection (b)(2). The initial production fee:

25 (1) may not exceed:

26 (A) \$0.25 per acre-foot for water used for
27 agricultural irrigation; or

1 (B) \$0.0425 per thousand gallons for water used
2 for any other purpose; and

3 (2) may be increased at a cumulative rate not to exceed
4 three percent per year.

5 (d) In addition to the production fee authorized under this
6 section, the district may assess an export fee on groundwater from a
7 well that is produced for transport outside the district.

8 (e) Fees authorized by this section may be:

9 (1) assessed annually or monthly; and

10 (2) used to pay the cost of district operations.

11 Sec. 8804.203. EXEMPTION FROM FEES. (a) Except as provided
12 by Subsection (b), the district may not impose a fee on a well
13 drilled by a nonprofit rural water supply corporation, water
14 district, or other political subdivision if the well's production
15 is for use within the district.

16 (b) The district by emergency order of the board may impose
17 a reasonable and temporary production fee on a well described by
18 Subsection (a) if:

19 (1) severe drought or another district emergency makes
20 the fee necessary; and

21 (2) the term of the order does not exceed 180 days.

22 SECTION 5. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not
23 later than the 45th day after the effective date of this Act:

24 (1) the Val Verde County Commissioners Court shall
25 appoint one temporary director from each of the four commissioners
26 precincts in the county to represent the precinct in which the
27 temporary director resides;

1 (2) the county judge of Val Verde County shall appoint
2 one temporary director who resides in the district to represent the
3 district at large; and

4 (3) the Del Rio City Council shall appoint two
5 temporary directors, each of whom resides in the district, to
6 represent the district at large.

7 (b) Of the temporary directors, at least one director must
8 represent rural water suppliers in the district, one must represent
9 agricultural interests in the district, one must represent
10 industrial interests in the district, and one must represent
11 municipal water suppliers.

12 (c) If there is a vacancy on the temporary board of
13 directors of the district, the remaining temporary directors shall
14 appoint a person to fill the vacancy in a manner that meets the
15 representational requirements of this section.

16 (d) Temporary directors serve until temporary directors
17 become initial directors as provided by Section 8 of this Act or
18 this Act expires under Section 12, whichever occurs earlier.

19 SECTION 6. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS.
20 As soon as practicable after all the temporary directors have
21 qualified under Section 36.055, Water Code, a majority of the
22 temporary directors shall convene the organizational meeting of the
23 district at a location within the district agreeable to a majority
24 of the directors. If no location can be agreed upon, the
25 organizational meeting shall be at the Val Verde County Courthouse.

26 SECTION 7. CONFIRMATION ELECTION. (a) The temporary
27 directors shall hold an election to confirm the creation of the

1 district.

2 (b) Section 41.001(a), Election Code, does not apply to a
3 confirmation election held as provided by this section.

4 (c) Except as provided by this section, a confirmation
5 election must be conducted as provided by Sections 36.017(b)-(i),
6 Water Code, and the Election Code.

7 (d) The district may hold a subsequent confirmation
8 election if the previous confirmation election fails to pass. A
9 subsequent confirmation election may not be held sooner than one
10 year after the date of the previous confirmation election.

11 (e) The confirmation election ballot shall be printed to
12 permit voting for or against the proposition: "To create the Val
13 Verde County Groundwater Conservation District and to authorize the
14 district to impose an ad valorem tax at a rate not to exceed 5 cents
15 for each \$100 valuation of all taxable property in the district with
16 no more than a 2.5-cent tax for each \$100 valuation of all taxable
17 property in the district for the first two tax years after the
18 district's confirmation."

19 (f) If the establishment of the district is not confirmed at
20 an election held under this section before September 1, 2010, the
21 district is dissolved, except that:

22 (1) any debts incurred shall be paid;

23 (2) any assets that remain after the payment of debts
24 shall be transferred to Val Verde County; and

25 (3) the organization of the district shall be
26 maintained until all debts are paid and remaining assets are
27 transferred.

1 SECTION 8. INITIAL DIRECTORS. If creation of the district
2 is confirmed at an election held under Section 7 of this Act, the
3 temporary directors of the district become the initial directors of
4 the district and serve on the board of directors until permanent
5 directors are elected under Section 9 of this Act.

6 SECTION 9. ELECTION OF PERMANENT DIRECTORS. (a) The
7 initial directors serve until the first regularly scheduled
8 election of directors under Subsection (b) of this section.

9 (b) On the uniform election date prescribed by Section
10 41.001, Election Code, in November of the first even-numbered year
11 after the year in which the district is authorized to be created at
12 a confirmation election, an election shall be held in the district
13 for the election of seven directors. The elected directors shall
14 draw lots to determine which three directors shall serve terms
15 lasting until the first regularly scheduled election under Section
16 8804.103, Special District Local Laws Code, as added by this Act,
17 and which four shall serve until the second regularly scheduled
18 directors election.

19 SECTION 10. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.
20 (a) The legal notice of the intention to introduce this Act,
21 setting forth the general substance of this Act, has been published
22 as provided by law, and the notice and a copy of this Act have been
23 furnished to all persons, agencies, officials, or entities to which
24 they are required to be furnished under Section 59, Article XVI,
25 Texas Constitution, and Chapter 313, Government Code.

26 (b) The governor has submitted the notice and Act to the
27 Texas Commission on Environmental Quality.

1 (c) The Texas Commission on Environmental Quality has filed
2 its recommendations relating to this Act with the governor, the
3 lieutenant governor, and the speaker of the house of
4 representatives within the required time.

5 (d) All requirements of the constitution and laws of this
6 state and the rules and procedures of the legislature with respect
7 to the notice, introduction, and passage of this Act are fulfilled
8 and accomplished.

9 SECTION 11. STUDY COMPLETION. Not later than the 180th day
10 after the date the district is confirmed at an election held for
11 that purpose, the Texas Water Development Board shall complete the
12 initial study required by Section 8804.161, Special District Local
13 Laws Code, as added by this Act, and deliver the findings of the
14 study to the board.

15 SECTION 12. EXPIRATION. (a) If the creation of the
16 district is not confirmed at a confirmation election held under
17 Section 7 of this Act before September 1, 2010, this Act expires on
18 that date.

19 (b) The expiration of this Act does not affect the liability
20 of the district to pay any debt incurred or the transfer of any
21 assets remaining to Val Verde County as required by Section 7(f) of
22 this Act.

23 SECTION 13. EFFECTIVE DATE. This Act takes effect
24 immediately if it receives a vote of two-thirds of all the members
25 elected to each house, as provided by Section 39, Article III, Texas
26 Constitution. If this Act does not receive the vote necessary for
27 immediate effect, this Act takes effect September 1, 2005.

Child, CIPRIANO MENDOZA, JR., (DOB: 09/16/1989).

The name and address of the attorney for the petitioner is: MELISSA DEGEROLAMI,
P. O. Box 23990, San Antonio, Texas 78223-0990.

The Court has authority in this suit to render an order in the child's interest that will be binding on you, including the termination of the parent-child relationship, the determination of paternity, and the appointment of a conservator with authority to consent to the child's adoption. Issued and given under my hand and seal of said Court at Del Rio, Texas, this 6th day of January, A.D. 2005.



Martha Mitchell
MARTHA MITCHELL
Clerk of the District Courts
Val Verde County, Texas
P. O. Box 1544, Del Rio, Texas 78841

by the Texas Department of Family and Protective Services as Managing Conservator of the
Child, LORENZO JAMES ATWOOD SHARKEY, (DOB: 01/13/1992).

The name and address of the attorney for the petitioner is: MELISSA DEGEROLAMI,
P. O. Box 23990, San Antonio, Texas 78223-0990.

The Court has authority in this suit to render an order in the child's interest that will be binding on you, including the termination of the parent-child relationship, the determination of paternity, and the appointment of a conservator with authority to consent to the child's adoption. Issued and given under my hand and seal of said Court at Del Rio, Texas, this 6th day of January, A.D. 2005.



Martha Mitchell
MARTHA MITCHELL
Clerk of the District Courts
Val Verde County, Texas
P. O. Box 1544, Del Rio, Texas 78841

Public
Notices 003

Public
Notices 003

Found
008

Lost
009

PUBLIC NOTICE

This is to give notice of intent to introduce in the 79th Texas Legislature, Regular Session, a bill to be entitled "An Act relating to the creation, administration, powers, duties, operation, and financing of the Val Verde County Groundwater Conservation District."

Found dog off Cantu Rd. New Years Eve. No tag, call to identify 765-7307.

Lost
009

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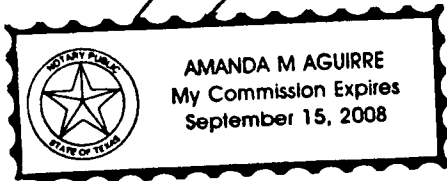
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THE STATE OF TEXAS
COUNTY OF VAL VERDE

PO# or Sort: _____
Company Pete Gallego

AFFIDAVIT

Before me, the undersigned authority, on this day personally appeared Mario Aguirre known to me, who, being by me duly sworn, on his oath deposes and says that he is the Advertising Manager of the Del Rio News-Herald a newspaper of general circulation published in said county; that said newspaper has been continuously and regularly published in said County for a period of more than one year; that a copy of the within and foregoing notice was published in said newspaper at least once a week for a period of 1 time(s) before the return day named herein, such publication being on the following date(s): 01/13/05.



Notary Public in and for Val Verde County, Texas:

Mario Aguirre
Mario Aguirre

Amanda Aguirre
Amanda Aguirre

LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES
STATE OF TEXAS

HB 3484
Bill Number

TO: The Honorable Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Commission on Environmental Quality copies of a bill relating to a conservation and reclamation district and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Commission on Environmental Quality, under Section 59(d), Article XVI, Constitution of the State of Texas.

MAR 22 2005

Date transmitted to
Governor's Office

Robert Haney
Chief Clerk
House of Representatives

TO: Texas Commission on Environmental Quality

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of a bill relating to a conservation and reclamation district and a copy of the notice of intention to introduce the bill.

5.24.05
Date transmitted to
Texas Commission on Environmental Quality

RICK PERRY
Governor

TO: The Honorable Speaker of the House

The Honorable President of the Senate

The Honorable Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are the recommendations of the Texas Commission on Environmental Quality in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.

Nancy Bair
Texas Commission on Environmental Quality

HOUSE COMMITTEE REPORT

1st Printing

05 MAY -7 AM 12:33
HOUSE OF REPRESENTATIVES

By: Gallego

H.B. No. 3484

Substitute the following for H.B. No. 3484:

By: Puente

C.S.H.B. No. 3484

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the Val Verde County Groundwater Conservation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

(1) "Board" means the board of directors of the district.

(2) "Director" means a member of the board.

(3) "District" means the Val Verde County Groundwater Conservation District.

SECTION 2. CREATION. A groundwater conservation district, to be known as the Val Verde County Groundwater Conservation District, is created in Val Verde County, subject to approval at a confirmation election under Section 8 of this Act.

SECTION 3. FINDINGS OF BENEFIT. (a) The district is created to serve a public use and benefit.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(c) All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution.

SECTION 4. CONTINUING PROVISIONS OF DISTRICT. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8804 to read as follows:

CHAPTER 8804. VAL VERDE COUNTY GROUNDWATER

CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8804.001. DEFINITIONS. In this chapter:

(1) "Agricultural use" means any use or activity involving agriculture, including irrigation.

(2) "Agriculture" means any of the following activities:

(A) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;

(B) the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers of nonsoil media, by a nursery grower;

(C) raising, feeding, or keeping animals, other than fish, for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;

(D) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure;

(E) wildlife management; and

(F) raising or keeping equine animals.

1 (3) "Board" means the board of directors of the
2 district.

3 (4) "Director" means a member of the board.

4 (5) "District" means the Val Verde County Groundwater
5 Conservation District.

6 (6) "Domestic use" means use in the district of water
7 by a person owning the well from which the water is withdrawn and by
8 that person's household for:

9 (A) drinking, washing, or culinary purposes;

10 (B) irrigation of lawns;

11 (C) irrigation of a family garden or orchard the
12 produce of which is for household consumption only;

13 (D) swimming pools, decorative ponds, or
14 fountains on the person's property; and

15 (E) watering of domestic animals not raised,
16 maintained, or sold for commercial purposes.

17 (7) "Political subdivision" means a county,
18 municipality, or other body politic or corporate of the state,
19 including a district or authority created under Section 52, Article
20 III, or Section 59, Article XVI, Texas Constitution, a state
21 agency, or a nonprofit water supply corporation created under
22 Chapter 67, Water Code.

23 Sec. 8804.002. NATURE OF DISTRICT. The district is a
24 groundwater conservation district in Val Verde County created under
25 Section 59, Article XVI, Texas Constitution.

26 Sec. 8804.003. DISTRICT PURPOSE. The district is created
27 to:

1 (1) provide for the protection, recharging, and
2 prevention of waste of groundwater in Val Verde County;

3 (2) control subsidence caused by the withdrawal of
4 water from the groundwater reservoirs in Val Verde County;

5 (3) regulate the transport of groundwater out of the
6 boundaries of the district;

7 (4) manage the issuance of permits for the transfer of
8 groundwater by requiring groundwater availability models of permit
9 applicants; and

10 (5) protect water quality.

11 [Sections 8804.004-8804.050 reserved for expansion]

12 SUBCHAPTER B. TERRITORY

13 Sec. 8804.051. BOUNDARIES. The boundaries of the district
14 are coextensive with the boundaries of Val Verde County, Texas.

15 [Sections 8804.052-8804.100 reserved for expansion]

16 SUBCHAPTER C. BOARD OF DIRECTORS

17 Sec. 8804.101. BOARD. The board consists of seven
18 directors.

19 Sec. 8804.102. METHOD OF ELECTING DIRECTORS: COMMISSIONERS
20 PRECINCTS. (a) The directors of the district shall be elected
21 according to the commissioners precinct method as provided by this
22 section.

23 (b) Three directors shall be elected by the voters of the
24 entire district, and one director shall be elected from each county
25 commissioners precinct by the voters of that precinct.

26 (c) Except as provided by Subsection (e), to be eligible to
27 be a candidate for or to serve as director at large, a person must be

1 a registered voter in the district. To be a candidate for or to
2 serve as director from a county commissioners precinct, a person
3 must be a registered voter of that precinct.

4 (d) A person shall indicate on the application for a place
5 on the ballot:

6 (1) the precinct that the person seeks to represent;
7 or

8 (2) that the person seeks to represent the district at
9 large.

10 (e) When the boundaries of the county commissioners
11 precincts are redrawn after each federal decennial census to
12 reflect population changes, a director in office on the effective
13 date of the change, or a director elected or appointed before the
14 effective date of the change whose term of office begins on or after
15 the effective date of the change, shall serve in the precinct from
16 which elected or appointed even if the change in boundaries places
17 the person's residence outside the precinct from which the person
18 was elected or appointed.

19 Sec. 8804.103. ELECTION DATE. The district shall hold an
20 election to elect the appropriate number of directors on the
21 uniform election date prescribed by Section 41.001, Election Code,
22 in November of each even-numbered year.

23 Sec. 8804.104. TERMS. (a) Directors serve staggered
24 four-year terms.

25 (b) A director may serve for consecutive terms.

26 Sec. 8804.105. COMPENSATION. (a) A director is not
27 entitled to receive fees of office for performing the duties of a

1 director.

2 (b) The board may authorize a director to receive
3 reimbursement for the director's reasonable expenses incurred
4 while engaging in activities outside the district on behalf of the
5 board.

6 [Sections 8804.106-8804.150 reserved for expansion]

7 SUBCHAPTER D. POWERS AND DUTIES

8 Sec. 8804.151. POWERS AND DUTIES. Except as otherwise
9 provided by this chapter, the district has all of the rights,
10 powers, privileges, authority, functions, and duties provided by
11 the general law of this state, including Chapter 36, Water Code,
12 applicable to groundwater conservation districts created under
13 Section 59, Article XVI, Texas Constitution.

14 Sec. 8804.152. PERMIT TO TRANSFER GROUNDWATER. (a) The
15 district by rule shall:

16 (1) require a person to obtain a permit from the
17 district to transfer groundwater out of the district; and

18 (2) regulate the terms of a transfer of groundwater
19 out of the district.

20 (b) The district shall develop rules under this section that
21 are consistent with the requirements of Section 36.122, Water Code.

22 (c) The district shall use a groundwater availability
23 model, and not historical use, as the basis for issuing permits.

24 (d) A permit issued under this section, except for a permit
25 issued under Section 8804.153(a), does not establish historical
26 use.

27 (e) In the event of a conflict between the information

1 provided by the groundwater study conducted under Section 8804.161
2 and the recommendations submitted under Section 8804.164 regarding
3 the minimum flow requirements for any spring in the district, the
4 determination of the Texas Water Development Board study under
5 Section 8804.161 controls for purposes of development of rules
6 under this section.

7 Sec. 8804.153. PERMITS FOR USE SOLELY INSIDE DISTRICT. (a)
8 The district shall grant the City of Del Rio a permit in the city's
9 name that authorizes the city to pump from all city wells a stated
10 cumulative amount of not less than 15,000 acre-feet of water
11 annually for use solely inside the district. If the study performed
12 under Section 8804.162 finds that sufficient groundwater is
13 available, the district shall amend the city's permit to authorize
14 the city to pump from all city wells a stated cumulative amount of
15 not less than 20,000 acre-feet of water annually for use solely
16 inside the district. This subsection does not limit the City of Del
17 Rio's right to apply for or obtain a permit to transfer groundwater
18 under Section 8804.152.

19 (b) The district shall grant to a nonprofit rural water
20 supply corporation, water district, or other political subdivision
21 a permit that authorizes the water supply corporation, water
22 district, or other political subdivision to pump from its wells
23 annually a volume of water that is not less than the volume equal to
24 twice its greatest water usage in a calendar year before the date
25 the district is confirmed at an election held for that purpose, for
26 use solely inside the district.

27 Sec. 8804.154. AGRICULTURAL USE PERMIT. (a) Except as

1 provided by Section 8804.155, the district shall grant any
2 application for an agricultural use permit for any well that is used
3 solely for agricultural use inside the district. The district
4 shall issue an agricultural use permit in an amount that is not less
5 than five acre-feet of water per acre actually cultivated per year.
6 An agricultural use permit is nontransferable and expires on the
7 date the well ceases to be used solely for agricultural use inside
8 the district.

9 (b) This section does not limit the well owner's right to
10 apply for or obtain a permit to transfer groundwater under Section
11 8804.152.

12 Sec. 8804.155. LIMITATION ON WELL PERMIT REQUIREMENTS. (a)
13 The district may not require a person to obtain a permit from the
14 district for:

15 (1) a well used solely for domestic use or for
16 providing water for livestock or poultry on a tract of land smaller
17 than 10 acres that is either drilled, completed, or equipped so that
18 it is incapable of producing more than 30,000 gallons of
19 groundwater a day;

20 (2) a well used solely for domestic use or for
21 providing water for livestock or poultry on a tract of land 10 acres
22 or larger that is either drilled, completed, or equipped so that it
23 is incapable of producing more than 50,000 gallons of groundwater a
24 day; or

25 (3) any well in use before the date the district is
26 confirmed at an election held for that purpose and used solely for
27 agricultural use.

1 (b) The district shall require a permit for a well described
2 by Subsection (a)(3) that ceases to be used solely for agricultural
3 use. The district also may impose a fee on the well as provided by
4 Section 8804.202(c)(1)(A).

5 (c) An owner of a well described by this section shall
6 register the well with the district.

7 (d) A well owner is entitled to a permit exemption under
8 this section only if water from the well is used solely inside the
9 district. If water from a well is not used solely inside the
10 district, the well owner must obtain a permit.

11 Sec. 8804.156. REPLACEMENT WELL. (a) A new well that
12 replaces an abandoned or decommissioned well is subject to the same
13 permit requirements or exemption as the well it replaces if the
14 replacement well:

15 (1) is used solely for the same purposes as the well it
16 replaces; and

17 (2) serves the same area as the well it replaces.

18 (b) The district may not require a person who repairs or
19 modifies a well to obtain a permit for that well if the well:

20 (1) is exempt under Section 8804.155; and

21 (2) continues to be used solely for agricultural use.

22 Sec. 8804.157. PROHIBITION ON DISTRICT PURCHASE, SALE,
23 TRANSPORT, OR DISTRIBUTION OF WATER. The district may not
24 purchase, sell, transport, or distribute surface water or
25 groundwater for any purpose.

26 Sec. 8804.158. PROHIBITION ON DISTRICT USE OF EMINENT
27 DOMAIN. The district may not exercise the power of eminent domain.

1 Sec. 8804.159. REGIONAL COOPERATION. To provide for
2 regional continuity, the district shall:

3 (1) participate as needed in coordination meetings
4 with other groundwater conservation districts in its designated
5 management area;

6 (2) coordinate the collection of data with other
7 groundwater conservation districts in its designated management
8 area in such a way as to achieve relative uniformity of data type
9 and quality;

10 (3) coordinate efforts to monitor water quality with
11 other groundwater conservation districts in its designated
12 management area, local governments, and state agencies;

13 (4) provide groundwater level data to other
14 groundwater conservation districts in its designated management
15 area;

16 (5) investigate any groundwater or aquifer pollution
17 with the intention of locating its source;

18 (6) notify other groundwater conservation districts
19 in its designated management area and all appropriate agencies of
20 any groundwater pollution detected; and

21 (7) include other groundwater conservation districts
22 in its designated management area on the mailing lists for district
23 newsletters, seminars, public education events, news articles, and
24 field days.

25 Sec. 8804.160. WATER CONSERVATION INITIATIVE. The district
26 may create a water conservation initiative as described by Section
27 11.32, Tax Code.

1 Sec. 8804.161. TEXAS WATER DEVELOPMENT BOARD STUDY. At
2 least once every 10 years and at any other time the board considers
3 necessary to implement Section 8804.152, the staff of the Texas
4 Water Development Board shall make a complete study of the
5 groundwater in the district and determine:

- 6 (1) the water level;
7 (2) the rates and amounts of groundwater withdrawal;
8 (3) the rates and amounts by which the groundwater is
9 recharged;
10 (4) rainwater levels; and
11 (5) other information relating to the groundwater
12 availability of the aquifer.

13 Sec. 8804.162. LOCAL STUDY OF GROUNDWATER AVAILABILITY.
14 (a) Except as provided by Subsection (b), not later than the 10th
15 anniversary of the date on which the district is confirmed, the
16 district shall complete a study to determine whether there is
17 sufficient groundwater to amend the permit granted under Section
18 8804.153(a) to the City of Del Rio as authorized by Section
19 8804.153(a).

20 (b) In place of the district's study, the City of Del Rio may
21 perform a study of the groundwater availability in the district and
22 the board shall rely on the city's study if the city's study meets
23 the criteria of the Texas Water Development Board study required by
24 Section 8804.161 and the Texas Water Development Board study has
25 not been completed or is otherwise unavailable.

26 Sec. 8804.163. MORATORIUM ON TRANSFER PERMITS. (a) Except
27 as provided by Subsection (d), the district shall impose a

1 moratorium on the issuance of permits for the transfer of
2 groundwater during each period set aside to conduct and consider a
3 groundwater study under Section 8804.161.

4 (b) Except for the initial study, the district by rule shall
5 specify the length of the period set aside to conduct and consider
6 groundwater studies under Section 8804.161.

7 (c) The district may not issue a permit for the transfer of
8 groundwater until:

9 (1) an initial groundwater study under Section
10 8804.161 is completed and submitted to the district; and

11 (2) the spring flow and groundwater availability
12 advisory panel makes a determination under Section 8804.164 of the:

13 (A) flow of each spring in the district; and

14 (B) groundwater availability in the district.

15 (d) The board by emergency order may issue a permit during a
16 moratorium on the affirmative vote of at least five directors.

17 Sec. 8804.164. SPRING FLOW AND GROUNDWATER AVAILABILITY
18 ADVISORY PANEL. (a) Not later than the 90th day after the date on
19 which the first permanent directors are elected, the board shall
20 appoint a spring flow and groundwater availability advisory panel
21 to determine the minimum spring flow of each spring and the
22 groundwater availability in the district and recommend to the board
23 the maximum groundwater withdrawal rate that should be permitted by
24 the district to achieve or maintain at least those minimum flows and
25 that groundwater availability.

26 (b) The advisory panel shall be composed of the following
27 members:

- 1 (1) two members who represent the City of Del Rio;
- 2 (2) two members who represent agricultural interests
3 and each own a minimum of 5,000 acres of land in the district;
- 4 (3) two members who represent the interests of and are
5 riparian landowners in the district;
- 6 (4) one member who represents rural water suppliers;
- 7 (5) one member who represents environmental
8 interests; and

9 (6) one member who represents a water marketing group,
10 or, if the board is unable to locate a person to represent water
11 marketing, a member appointed by the board.

12 (c) The panel shall develop and submit to the board
13 recommendations for limitations on groundwater withdrawal rates
14 consistent with maintaining minimum spring flows and groundwater
15 availability. In developing the recommendations, the panel shall
16 consider:

- 17 (1) the results of the Texas Water Development Board
18 study required by Section 8804.161 and the findings of any other
19 study presented to the panel;
- 20 (2) the best available science;
- 21 (3) the water level;
- 22 (4) the rate and amount of groundwater withdrawal;
- 23 (5) the rate and amount of groundwater recharge;
- 24 (6) underflow from outside the district;
- 25 (7) information related to the availability of
26 groundwater in the district for withdrawal;
- 27 (8) spring discharge rates as a function of

1 groundwater withdrawal rates;

2 (9) historical data;

3 (10) drought period management; and

4 (11) other factors required to be considered by the
5 board.

6 (d) The district shall provide the panel with:

7 (1) any information the district has that is relevant
8 to the work and purpose of the panel; and

9 (2) any support necessary to determine spring flows
10 and groundwater availability in the district.

11 (e) The board shall review the recommendations submitted by
12 the advisory panel under Subsection (c) and shall consider them in
13 conjunction with other factors, including the present and future
14 needs for water related to water supply planning in Val Verde
15 County.

16 (f) The board may accept or reject the advisory panel's
17 recommendations, but the board may not change the determination of
18 the panel regarding the limitations on groundwater withdrawal rates
19 necessary to achieve or maintain at least the minimum spring flows
20 and groundwater availability.

21 [Sections 8804.165-8804.200 reserved for expansion]

22 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

23 Sec. 8804.201. LIMITATION ON TAXES. (a) The district may
24 not levy ad valorem taxes at a rate that exceeds five cents on each
25 \$100 of assessed valuation of taxable property in the district.

26 (b) The district may not levy ad valorem taxes at a rate that
27 exceeds 2-1/2 cents on each \$100 of assessed valuation of taxable

1 property in the district for the first two tax years after the
2 district's confirmation.

3 (c) Not later than the seventh anniversary of the date on
4 which the district is confirmed, the district shall maintain in
5 reserve at all times not less than six months and not more than two
6 years of operating capital. If the district's reserve operating
7 capital at any time exceeds the amount needed to operate the
8 district for two years, the district must:

9 (1) reduce taxes so as not to collect more revenue than
10 is needed to operate the district; or

11 (2) perform a recharge project with the excess
12 revenue.

13 Sec. 8804.202. FEES. (a) The board by rule may impose
14 reasonable fees on each well:

15 (1) for which a permit is issued by the district; and

16 (2) that is not exempt from district regulation.

17 (b) A production fee may be based on:

18 (1) the size of column pipe used by the well; or

19 (2) the amount of water actually withdrawn from the
20 well, or the amount authorized or anticipated to be withdrawn.

21 (c) The board shall base the initial production fee on the
22 criteria listed in Subsection (b)(2). The initial production fee:

23 (1) may not exceed:

24 (A) \$0.25 per acre-foot for water used for
25 agricultural irrigation; or

26 (B) \$0.0425 per thousand gallons for water used
27 for any other purpose; and

1 (2) may be increased at a cumulative rate not to exceed
2 three percent per year.

3 (d) In addition to the production fee authorized under this
4 section, the district may assess an export fee on groundwater from a
5 well that is produced for transport outside the district.

6 (e) Fees authorized by this section may be:

7 (1) assessed annually or monthly; and

8 (2) used to pay the cost of district operations.

9 Sec. 8804.203. EXEMPTION FROM FEES. (a) Except as provided
10 by Subsection (b), the district may not impose a fee on a well
11 drilled by a nonprofit rural water supply corporation, water
12 district, or other political subdivision if the well's production
13 is for use within the district.

14 (b) The district by emergency order of the board may impose
15 a reasonable and temporary production fee on a well described by
16 Subsection (a) if:

17 (1) at least five of the directors approve the
18 emergency order;

19 (2) severe drought or another district emergency makes
20 the fee necessary; and

21 (3) the term of the order does not exceed 180 days.

22 SECTION 5. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not
23 later than the 45th day after the effective date of this Act:

24 (1) the Val Verde County Commissioners Court shall
25 appoint one temporary director from each of the four commissioners
26 precincts in the county to represent the precinct in which the
27 temporary director resides;

1 (2) the county judge of Val Verde County shall appoint
2 one temporary director who resides in the district to represent the
3 district at large; and

4 (3) the Del Rio City Council shall appoint two
5 temporary directors, each of whom resides in the district, to
6 represent the district at large.

7 (b) Of the temporary directors appointed under Subsections
8 (a)(1) and (2) of this section, at least one director must represent
9 rural water suppliers in the district, one must represent
10 agricultural interests in the district, one must represent
11 industrial interests in the district, and one must represent
12 municipal water suppliers.

13 (c) If there is a vacancy on the temporary board of
14 directors of the district, the authority who appointed the
15 temporary director whose position is vacant shall appoint a person
16 to fill the vacancy in a manner that meets the representational
17 requirements of this section.

18 (d) Temporary directors serve until the earliest of the
19 date:

20 (1) temporary directors become initial directors as
21 provided by Section 9 of this Act;

22 (2) the confirmation election under Section 8 of this
23 Act fails to pass; or

24 (3) this Act expires under Section 13.

25 SECTION 6. LIMITED POWERS AND DUTIES OF TEMPORARY BOARD OF
26 DIRECTORS. (a) The temporary board may only:

27 (1) hold an election under Section 8 of this Act;

- 1 (2) manage the day-to-day governance of the district;
2 (3) make administrative and nondiscretionary
3 decisions; and
4 (4) establish temporary fees under Section 36.206,
5 Water Code.

6 (b) The temporary board does not have rulemaking or
7 permitting authority.

8 (c) Any procedures, fees, or policies established by the
9 temporary board are subject to ratification by the permanent
10 directors elected under Section 10 of this Act.

11 SECTION 7. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS.
12 As soon as practicable after all the temporary directors have
13 qualified under Section 36.055, Water Code, a majority of the
14 temporary directors shall convene the organizational meeting of the
15 district at a location within the district agreeable to a majority
16 of the directors. If no location can be agreed upon, the
17 organizational meeting shall be at the Val Verde County Courthouse.

18 SECTION 8. CONFIRMATION ELECTION. (a) The temporary
19 directors shall hold an election to confirm the creation of the
20 district.

21 (b) Section 41.001(a), Election Code, does not apply to a
22 confirmation election held as provided by this section.

23 (c) Except as provided by this section, a confirmation
24 election must be conducted as provided by Sections 36.017(b)-(i),
25 Water Code, and the Election Code.

26 (d) The district may hold a subsequent confirmation
27 election if the previous confirmation election fails to pass. A

1 subsequent confirmation election may not be held sooner than one
2 year after the date of the previous confirmation election.

3 (e) The confirmation election ballot shall be printed to
4 permit voting for or against the proposition: "To create the Val
5 Verde County Groundwater Conservation District and to authorize the
6 district to impose an ad valorem tax at a rate not to exceed 2.5
7 cents for each \$100 valuation of all taxable property in the
8 district for the first two tax years after the district's
9 confirmation and at a rate not to exceed 5 cents for each \$100
10 valuation of all taxable property in the district after the second
11 tax year."

12 (f) If a majority of the voters voting at a confirmation
13 election under this section do not vote in favor of the ballot
14 proposition, the proposition fails and the temporary board is
15 dissolved. The authorities that appointed the temporary board may
16 agree to establish a new temporary board in the manner provided by
17 Section 5 of this Act. A person who served on the original or a
18 subsequent temporary board is eligible to serve on another
19 temporary board. Each temporary board has the duties and powers
20 provided by this section and Sections 6 and 7 of this Act.

21 (g) If the establishment of the district is not confirmed at
22 an election held under this section before September 1, 2010, the
23 district is dissolved, except that:

- 24 (1) any debts incurred shall be paid;
25 (2) any assets that remain after the payment of debts
26 shall be transferred to Val Verde County; and
27 (3) the organization of the district shall be

1 maintained until all debts are paid and remaining assets are
2 transferred.

3 SECTION 9. INITIAL DIRECTORS. (a) If creation of the
4 district is confirmed at an election held under Section 8 of this
5 Act, the temporary directors of the district become the initial
6 directors of the district and serve on the board of directors until
7 permanent directors are elected under Section 10 of this Act.

8 (b) The initial directors have the powers and duties of the
9 temporary directors under Sections 6(a)(2)-(4), (b), and (c) of
10 this Act, and shall hold an election for permanent directors under
11 Section 10 of this Act.

12 SECTION 10. ELECTION OF PERMANENT DIRECTORS. (a) The
13 initial directors serve until the first regularly scheduled
14 election of directors under Subsection (b) of this section.

15 (b) On the uniform election date prescribed by Section
16 41.001, Election Code, in November of the first even-numbered year
17 after the year in which the district is authorized to be created at
18 a confirmation election, an election shall be held in the district
19 for the election of seven directors. The elected directors shall
20 draw lots to determine which three directors shall serve terms
21 lasting until the first regularly scheduled election under Section
22 8804.103, Special District Local Laws Code, as added by this Act,
23 and which four shall serve until the second regularly scheduled
24 directors election.

25 SECTION 11. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

26 (a) The legal notice of the intention to introduce this Act,
27 setting forth the general substance of this Act, has been published

1 as provided by law, and the notice and a copy of this Act have been
2 furnished to all persons, agencies, officials, or entities to which
3 they are required to be furnished under Section 59, Article XVI,
4 Texas Constitution, and Chapter 313, Government Code.

5 (b) The governor has submitted the notice and Act to the
6 Texas Commission on Environmental Quality.

7 (c) The Texas Commission on Environmental Quality has filed
8 its recommendations relating to this Act with the governor, the
9 lieutenant governor, and the speaker of the house of
10 representatives within the required time.

11 (d) All requirements of the constitution and laws of this
12 state and the rules and procedures of the legislature with respect
13 to the notice, introduction, and passage of this Act are fulfilled
14 and accomplished.

15 SECTION 12. STUDY COMPLETION. Not later than the last day
16 of the 18th month after the month in which the district is confirmed
17 at an election held for that purpose, the Texas Water Development
18 Board shall complete the initial study required by Section
19 8804.161, Special District Local Laws Code, as added by this Act,
20 and deliver the findings of the study to the board.

21 SECTION 13. EXPIRATION. (a) If the creation of the
22 district is not confirmed at a confirmation election held under
23 Section 8 of this Act before September 1, 2010, this Act expires on
24 that date.

25 (b) The expiration of this Act does not affect the liability
26 of the district to pay any debt incurred or the transfer of any
27 assets remaining to Val Verde County as required by Section 8(g) of

1 this Act.

2 SECTION 14. EFFECTIVE DATE. This Act takes effect
3 immediately if it receives a vote of two-thirds of all the members
4 elected to each house, as provided by Section 39, Article III, Texas
5 Constitution. If this Act does not receive the vote necessary for
6 immediate effect, this Act takes effect September 1, 2005.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

5/2/05
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES

to whom was referred HB 3484 have had the same under consideration and beg to report back with the recommendation that it

- () do pass, without amendment.
() do pass, with amendment(s).
☒ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
☒ yes () no A fiscal note was requested.
() yes ☒ no A criminal justice policy impact statement was requested.
() yes ☒ no An equalized educational funding impact statement was requested.
() yes ☒ no An actuarial analysis was requested.
☒ yes () no A water development policy impact statement was requested.
() yes ☒ no A tax equity note was requested.
() The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors: _____ / _____ / _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Puente, Chair	<input checked="" type="checkbox"/>			
Callegari, Vice-chair	<input checked="" type="checkbox"/>			
Bonnen	<input checked="" type="checkbox"/>			
Campbell	<input checked="" type="checkbox"/>			
Geren	<input checked="" type="checkbox"/>			
Hardcastle	<input checked="" type="checkbox"/>			
Hilderbran	<input checked="" type="checkbox"/>			
Hope	<input checked="" type="checkbox"/>			
Laney	<input checked="" type="checkbox"/>			

Total

9 aye
0 nay
0 present, not voting
0 absent

ALT
CHAIR

BILL ANALYSIS

C.S.H.B. 3484
By: Gallego
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas faces a difficult challenge to develop water policies that serve state and regional interests. The Texas Constitution authorizes the creation of groundwater districts to plan, develop, and regulate the use of water. HB 3484 creates the Val Verde Groundwater Conservation District, subject to approval at a confirmation election, to manage Val Verde's groundwater resources.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. DEFINITIONS. Defines the terms "Board" and "District."

SECTION 2. CREATION. A groundwater conservation district, to be known as the Val Verde Groundwater Conservation District (district), is created in Val Verde County, subject to voter approval at a confirmation election under Section 7 of this Act.

SECTION 3. FINDINGS OF BENEFIT. The district is created to serve a public use and benefit.

SECTION 4. CONTINUING PROVISIONS OF DISTRICT. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8804 as follows:

Subchapter A

Sec. 8804.001. DEFINITIONS. Defines "agriculture use", "agriculture", "board", "director", "district", "domestic use", and "political subdivision" as used in the bill.

Sec. 8804.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Val Verde County created under Section 59, Article XVI, Texas Constitution.

Sec. 8804.003. DISTRICT PURPOSE. The district is created to provide for the protection, recharging, and prevention of waste of groundwater in the Val Verde County area.

Subchapter B

Sec. 8804.051. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Val Verde County.

Subchapter C

Sec. 8804.101. BOARD. The board consists of seven directors.

Sec. 8804.102. METHOD OF ELECTING DIRECTORS. The directors of the district shall be elected according to the commissioners precinct method as provided by this section.

- Three members shall be elected by the voters of the entire district

- One member shall be elected from each county commissioners' precinct by the voters of that precinct.

Sec. 8804.103. **ELECTION DATE.** The district shall hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001, Election Code, in November of each even-numbered year.

Sec. 8804.104. **TERMS.** The directors shall serve staggered four-year terms and may serve for consecutive terms.

Sec. 8804.105. **COMPENSATION.** The directors are not entitled to receive fees of office for performing the duties of a director. The board may authorize reimbursement for the directors' reasonable expenses incurred while engaging in activities outside the district on behalf of the board.

Subchapter D

Sec. 8804.151. **POWERS AND DUTIES.** Provides that the district has all the powers and duties provided the general law of this state, including Chapter 36, Water Code.

Sec. 8804.152. **PERMIT TO TRANSFER GROUNDWATER.** The district shall require a person to obtain a permit from the district to transfer groundwater out of the district and regulate the terms of the transfer.

The district shall develop rules under this section that are consistent with the requirements of Section 36.122, Water Code; manage the issuance of permits using a sustainable yield calculation; maintain at least the 1996 minimum spring flow of San Felipe Springs and at least the minimum flows of all other springs in the district.

The district shall use a groundwater availability model, and not historical use, as a basis for issuing permits

Sec. 8804.153. **PERMITS FOR USE SOLELY INSIDE DISTRICT.** The district shall grant the City of Del Rio a permit in the city's names that authorizes the city to pump from all city wells a stated cumulative amount of not less than 15,000 acre-feet of water annually for use solely inside the district. If sufficient groundwater is available, the district shall amend the city's permit to authorize the city to pump a stated cumulative amount of not less than 20,000 acre-feet of water annually for use solely inside the district. This section does not limit the city's right to apply for or obtain a permit to transfer groundwater.

The district shall grant a nonprofit rural water supply corporation, water district, or other political subdivision a permit to pump from its wells annually a volume of water that is not less than the volume equal to twice its greatest water usage in a calendar year for use solely inside the district.

Sec. 8804.154. **AGRICULTURE USE PERMIT.** The district shall grant any application for an agricultural use permit for any well that is used solely for agriculture use inside the district and that is not less than five acre-feet of water per acre actually cultivated per year. An agricultural use permit is nontransferable and expires on the date the well ceases to be used for agricultural use inside the district. This section does not limit the well owner's right to apply for or obtain a permit to transfer groundwater.

Sec. 8804.155. **LIMITATION ON WELL PERMIT REQUIREMENTS.** The district may not require a person to obtain a permit from the district for a well used solely for domestic use or for providing water for livestock or poultry on a tract of land smaller than 10 acres that is either drilled, completed, or equipped so that it is incapable of producing more than 30,000 gallons of groundwater a day; a tract of land 10 acres or larger that is incapable of producing 50,000 gallons of groundwater a day; or any well in use before the date the district is confirmed at an election and used solely for agricultural use.

Sec. 8804.156. **REPLACEMENT WELL.** A new well that replaces an abandoned or decommissioned well is subject to the same permit requirements or exemption as the well it replaces if the replacement well is used solely for the same purposes and the same area as the well it replaces.

Sec. 8804.157. **PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER.** The district may not purchase, sell, transport, or distribute surface water or groundwater for any purpose.

Sec. 8804.158. **PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN.** The district may not exercise the power of eminent domain.

Sec. 8804.159. **REGIONAL COOPERATION.** To provide for regional continuity, the district shall participate in coordination meetings, coordinate the collection of data, coordinate efforts to monitor water quality, and provide groundwater level data to other groundwater conservation districts in its designated management area, local governments, and state agencies. The district shall investigate any groundwater or aquifer pollution and notify other groundwater conservation districts and all appropriate agencies of any groundwater pollution detected.

Sec. 8804.160. **WATER CONSERVATION INITIATIVE.** The district may create a water conservation initiative as described by Section 11.32, Tax Code.

Sec. 8804.161. **TEXAS WATER DEVELOPMENT BOARD STUDY.** At least once every 10 years and at any other time the board considers necessary, the staff of the Texas Water Development Board shall make a complete study of the groundwater in the district.

Sec. 8804.162. **LOCAL STUDY OF GROUNDWATER AVAILABILITY.** Not later than the 10th anniversary of the date on which the district is confirmed, the district shall complete a study to determine whether there is sufficient groundwater to amend the permit granted to the City of Del Rio.

Sec. 8804.163. **MORATORIUM ON TRANSFER PERMITS.** The district shall impose a moratorium on the issuance of permits for the transfer of groundwater during each period set aside to conduct and consider a groundwater study.

Sec. 8804.164. **SPRING FLOW AND GROUNDWATER AVAILABILITY ADVISORY PANEL.** Provides for appointment of a springflow and groundwater availability advisory panel to determine the minimum springflow of each spring and the groundwater availability in the district.

Subchapter E

Sec. 8804.201. **LIMITATION ON TAXES.** The district may not levy ad valorem taxes at a rate that exceeds five cents on each \$100 of assessed valuation of taxable property in the district.

Sec. 8804.202. **FEES.** The board may impose reasonable fees on each well.

Sec. 8804.203. **EXEMPTION FROM FEES.** The district may not impose a fee on a well drilled by a nonprofit rural water supply corporation, water district, or other political subdivision if the well's production is for use within the district. The district may impose a reasonable and temporary fee if severe drought or another district emergency makes the fee necessary and the term of the order does not exceed 180 days.

SECTION 5. APPOINTMENT OF TEMPORARY DIRECTORS. Not later than the 45th day after the effective date of this Act:

- the Val Verde County Commissioners Court shall appoint temporary directors from each of the four commissioners precincts in the county to represent the precinct in which the temporary directors reside;
- the County Judge shall appoint one temporary director who resides in the district

- to represent the district at large; and
the Del Rio City Council shall appoint two temporary directors who reside in the district to represent the district at large.

SECTION 6. LIMITED POWERS AND DUTIES OF TEMPORARY BOARD OF DIRECTORS. Provides for powers and duties of the temporary board.

SECTION 7. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practical, a majority of the temporary directors shall convene the organizational meeting of the district as a location within the district agreeable to a majority of the directors. If no location is agreed upon, the meeting shall be held at the Val Verde County Courthouse.

SECTION 8. CONFIRMATION ELECTION. The temporary directors shall hold an election to confirm the creation of the district.

SECTION 9. INITIAL DIRECTORS. If creation of the district is confirmed, the temporary directors become the initial directors of the district and serve on the board of directors until permanent directors are elected.

SECTION 10. ELECTION OF PERMANENT DIRECTORS. On the uniform election date prescribed by Section 41.001, Election Code, an election shall be held in the district for the election of seven directors.

SECTION 11. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. This section explains the procedural requirement that must be met for the passage of this Act.

SECTION 12. STUDY COMPLETION. The Texas Water Development Board shall complete the initial study and deliver the finding of the study to the board no later than 180th day after the date the district is confirmed.

SECTION 13. EXPIRATION. If the creation of the district is not confirmed, this Act expires on that date.

SECTION 14. EFFECTIVE DATE. On passage; or if the Act does not receive the necessary vote, September 1, 2005.

EFFECTIVE DATE

On passage; or if the Act does not receive the necessary vote, September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. No changes.

SECTION 2. Strikes Section 7 and replaces it with Section 8 of this Act.

SECTION 3. No changes.

SECTION 4. CONTINUING PROVISIONS OF DISTRICT.

Sec. 8804.001. DEFINITIONS. No changes

Sec. 8804.002. NATURE OF DISTRICT. No changes.

Sec. 8804.003. DISTRICT PURPOSE.

(1) strikes the word "area"

(2) strikes the word "area"

(4) strikes the subsection and replaces it to read as follows: **manage the issuance of permits for the transfer of groundwater by requiring groundwater availability models of permit applications; and**

(5) rewords subsection to read as follows: **protect water quality.**

Sec. 8804.051. BOUNDARIES. No changes.

Sec. 8804.101. BOARD. No changes.

Sec. 8804.102. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. No changes.

Sec. 8804.103. ELECTION DATE. No changes.

Sec. 8804.104. TERMS. No changes.

Sec. 8804.105. COMPENSATION. No changes.

Sec. 8804.151. POWERS AND DUTIES. No changes.

Sec. 8804.152. PERMIT TO TRANSFER.

(a) no changes

(b) strikes subsections (2) and (3) and only read as follows: **The district shall develop rules under this section that are consistent with the requirements of Section 36.122, Water Code.**

(c) no changes

(d) no changes

(e) this subsection is added to read as follows: **In the event of a conflict between the information provided by the groundwater study conducted under Section 8804.161 and the recommendations submitted under Section 8804.164 regarding the minimum flow requirements for any spring in the district, the determination of the Texas Water Development Board study under Section 8804.161 controls for purposes of development of rules under this section.**

Sec. 8804.153. PERMITS FOR USE SOLELY INSIDE DISTRICT. No changes.

Sec. 8804.154. AGRICULTURAL USE PERMIT. No changes.

Sec. 8804.155. LIMITATION OF WELL PERMIT REQUIREMENTS. No changes.

Sec. 8804.156. REPLACEMENT WELL. No changes.

Sec. 8804.157. PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER. No changes.

Sec. 8804.158. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN. No changes.

Sec. 8804.159. REGIONAL COOPERATION. No changes.

Sec. 8804.160. WATER CONSERVATION INITIATIVE. No changes.

Sec. 8804.161. TEXAS WATER DEVELOPMENT BOARD.

(1) no change

(2) no change

(3) no change

(4) no change

(5) strikes language and rewords to read as follows: **other information to the sustainable yield of the aquifer under Section 8804.152(b)(2).**

Sec. 8804.162. LOCAL STUDY OF GROUNDWATER AVAILABILITY.

(a) no changes.

(b) strikes the word "may" and replaces it with "shall".

Sec. 8804.163. MORATORIUM ON TRANSFER PERMITS.

(a) adds "Except as provided by Subsection (d),"

(b) no changes

(c) no changes

(1) no changes

(2) changes the subsection to read as follows: **the spring flow and groundwater availability advisory panel makes a determination under Section 8804.164 of the:**

(A) flow of each spring in the district; and

(B) groundwater availability in the district.

(3) strikes this subsection

(d) adds this subsection to read as follows: **The board by emergency order may issue a permit during a moratorium on the affirmative vote of at least five directors.**

Sec. 8804.164. SPRING FLOW AND GROUNDWATER AVAILABILITY ADVISORY PANEL. Adds this section explaining the makeup of the advisory panel as well as the duties of the panel.

Sec. 8804.201. LIMITATION ON TAXES. No changes.

Sec. 8804.202. FEES. No changes.

Sec. 8804.203. EXEMPTION FROM FEES.

(a) no changes.

(b) no changes.

(1) strikes the language and replaces it with: **at least five of the directors approve the emergency order;**

(2) strikes the language and replaces it with: **severe drought or another district emergency makes the fee necessary; and**

(3) **the term of the order does not exceed 180 days.**

SECTION 5. APPOINTMENT OF TEMPORARY DIRECTORS.

(a) no changes.

(b) no changes.

(c) strikes "remaining temporary directors" and adds: **"authority who appointed the temporary director whose position is vacant"**

(d) strikes language and rewords as follows:

Temporary directors serve until the earliest of the date:

(1) **temporary directors become initial directors as provided by Section 9 of this Act;**

(2) **the confirmation election under Section 8 of this Act fails to pass;**

or

(3) **this Act expires under Section 13.**

SECTION 6. LIMITED POWERS AND DUTIES OF TEMPORARY BOARD OF DIRECTORS. Adds this section to address the powers and duties of the temporary board of directors.

SECTION 7. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. No changes.

SECTION 8. CONFIRMATION ELECTION.

(a) no changes.

(b) no changes.

(c) no changes.

(d) no changes.

(e) changes "5 cents" to "2.5 cents"; strikes "with not more than" and replaces it with "for the first two tax years after the district's confirmation and at a rate not to exceed"; strikes "tax"; strikes "for the first two tax years after the district's confirmation."

(f) changes the language to read as follows: **If a majority of the voters at a confirmation election under this section do not vote in favor of the ballot proposition, the proposition fails and the temporary board is dissolved. The authorities that appointed the temporary board may agree to establish a new temporary board in the manner provided by Section 5 of this Act. A person who served on the original or a subsequent temporary board is eligible to serve on another temporary board. Each temporary board has the duties and powers provided by this section and Sections 6 and 7 of this Act.**

(g) this section is added and reads as follows contains the language in subsection (f) of the original language.

SECTION 9. INITIAL DIRECTORS.

(a) changes Section "7" to "8" and Section "9" to "10".

(b) this subsection added and read as follows: **The initial directors have the powers and duties of the temporary directors under Section 6(a)(2)-(4), (b), and (c) of this Act, and shall hold an election for permanent directors under Section 10 of this Act.**

SECTION 10. ELECTION OF PERMANENT DIRECTORS. No changes

SECTION 11. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. No changes

SECTION 12. STUDY COMPLETION. Strikes "180th day after the date" and replaces it with "last day of the 18th month after the month in which".

SECTION 13. EXPIRATION.

(a) changes Section "7" to "8".

(b) changes Section "7" to "8(g)".

SECTION 14. This Act takes effect immediately if it receives the necessary votes in each house.

If this Act fails to receive the vote necessary votes, this Act takes effect September 1, 2005.

SUMMARY OF COMMITTEE ACTION

HB 3484

April 18, 2005 2:00PM or upon final adjourn./recess

Considered in public hearing

Testimony taken in committee (See attached witness list.)

Left pending in committee

April 28, 2005 upon final adjourn./recess

Considered in formal meeting

Reported favorably without amendment(s)

May 2, 2005 2:00PM or upon final adjourn./recess

Vote reconsidered in committee

Committee substitute considered in committee

Reported favorably as substituted

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WITNESS LIST

HB 3484

HOUSE COMMITTEE REPORT

Natural Resources Committee

April 18, 2005 - 2:00PM or upon final adjourn./recess

For: Lowerre, Richard (Nature Conservancy of Texas)
Simpton, Jerry E. (Self and City of Del Rio Chamber of
Commerce)
Against: Alles, Richard (Greater Edwards Aquifer Alliance)
Johnson, Sr., Jay J. (West Texas Springs Alliance)
Rockwell, Brad (Greater Edwards Aquifer Alliance)
On: Sorola, David V. (City of Del Rio, Texas)

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 4, 2005

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB3484 by Gallego (Relating to the creation, administration, powers, duties, operation, and financing of the Val Verde County Groundwater Conservation District.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, WK, DLBa

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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 15, 2005

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB3484 by Gallego (Relating to the creation, administration, powers, duties, operation, and financing of the Val Verde County Groundwater Conservation District.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, WK, DLBa

LEGISLATIVE BUDGET BOARD

Austin, Texas

WATER DEVELOPMENT POLICY IMPACT STATEMENT

79TH LEGISLATIVE REGULAR SESSION

April 18, 2005

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB3484 by Gallego (Relating to the creation, administration, powers, duties, operation, and financing of the Val Verde County Groundwater Conservation District.), **As Introduced**

The Legislative Budget Board, in cooperation with the Water Development Board (TWDB) and Texas Commission on Environmental Quality (TCEQ), has determined the following:

Subject to a confirmation election, the bill would create the Val Verde County Groundwater Conservation District (District) providing for the powers, duties, administration, operations and financing of the District. The bill authorizes the District with specific powers and duties and with those of Texas Water Code, Chapter 36, related to the general law for Groundwater Conservation Districts (GCDs).

1) Population- The Val Verde County population projections to be used in the 2006 Plateau Region (J) Water Plan show significant growth from a 2000 population of 44,856 to 51,312 in 2010.

2) Location & Size- The District's boundaries would be coextensive with the boundaries of Val Verde County.

3) Powers- Same as general law GCDs under Texas Water Code, Chapter 36; however, special district permitting powers and duties are provided related to permits for the transfer of groundwater; granting specific permits for in-district use to the City of Del Rio, nonprofit water suppliers, and cultivated agriculture users; providing exemptions from permitting for specific types of domestic, livestock, poultry, and existing agriculture wells; and providing exemptions for like-use replacement wells. The District is authorized to create a water conservation initiative under Tax Code, Section 11.32.

4) District Finances- Same as general law GCDs under Texas Water Code, Chapter 36, including issuance of bonds and notes; levying of maintenance tax; and, assessing of production fees, export fees, and administrative fees. District tax limitations are discussed under the Ability to Tax heading below.

Similar to general law GCDs, the District would be authorized to assess annual production fees on each well for which a permit is issued by the District. District production fees would be based on the size of the column pipe, the amount of water actually withdrawn from wells or the amount authorized to be withdrawn. The fees may not exceed \$0.25 per acre-foot for water used for agricultural purposes and \$0.0425 per 1,000 gallons of water used for any other purpose. Production fees may be increased at a cumulative rate not to exceed 3 percent per year. Under general law, annual production fees may not exceed \$1 per acre-foot for water used for agricultural purposes or \$10 per acre-foot for water used for any other purpose. Similar to general law GCDs, the District may assess an export fee for groundwater produced from a well for transport out of the district in addition to the production fee. Export fees may be assessed annually and used to pay the cost of district operations. The District may not assess a fee, except during a drought or other district emergency, on a well drilled by a nonprofit water supply corporation, water district, or other political subdivision if the well's production is for use within the District.

5) Board of Directors- The District would be governed by a board of seven elected permanent directors serving staggered four-year terms. Unlike general law GCDs, directors would be elected according to the commissioners precinct method with one director elected from each county commissioners precinct and three directors elected at-large. Temporary directors are appointed and are responsible for scheduling and conducting

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the District's confirmation election. Within 45 days of the effective date of the Act, four temporary directors are to be appointed by the Commissioners Court of Val Verde County to represent commissioners precincts, one temporary director is to be appointed by the County Judge of Val Verde County to represent the District at-large, and two temporary directors are to be appointed by the Del Rio City Council to represent the District at-large. At least one temporary director must represent each of rural water supply, agriculture, industry, and municipal water supply interests. The temporary directors become the initial directors if the District is confirmed by the voters. After drawing lots to determine short- and long-terms, three initial directors would serve until the first permanent directors election in November of the first even-numbered year after the year in which the District is confirmed by election, and the other four initial directors would serve until the second permanent directors election in November of the second even-numbered year. The appropriate number of directors would then be elected in November of each subsequent second year. General law GCDs under Texas Water Code, Chapter 36, have 5 to 11 directors elected by the general precinct method. In some general law GCD creation cases, commissioners courts are provided 90 days to appoint temporary directors.

6) Eminent Domain.-Unlike general law GCDs under Texas Water Code, Chapter 36, the District is not authorized to exercise the power of eminent domain.

7) Ability to Tax. Similar to general law GCDs under Texas Water Code, Chapter 36, the District is authorized to levy a maintenance tax and to levy a tax for the repayment of bonds or notes. Both types of taxes are subject to voter authorization. The District may not levy a tax that exceeds \$0.025 per \$100 assessed valuation during its first two years of operation, and may not levy a tax that exceeds \$0.05 per \$100 assessed valuation after the first two years. Under Texas Water Code, Chapter 36, the maintenance tax for general law GCDs may not exceed \$0.50 per \$100 assessed valuation and the tax rate for the repayment of bonds or notes is not limited.

8) Ability to Exclude Property. As with general law for GCDs, there are no provisions to exclude territory.

9) Overlapping Services. There are no other GCDs in Val Verde County. The primary functions of GCDs are conservation and management of groundwater resources through data collection, rules and well permitting within their boundaries. These functions do not conflict with the services provided by the other water utilities or districts in the same area. The District's boundaries include the service areas of other water utilities and districts with Certificates of Convenience and Necessity (CCN). The other known water supply or sewer-service corporations, investor-owned utilities, or local water district or authorities in the District are: Val Verde County Water Control and Improvement District - Comstock (Reg. No. P0475); Del Rio Utilities Commission (CCN Nos. 11046 & 20420); Devils Shores Services, Inc. (CCN No. 12076); Devils Shores Water Supply Corporation (Reg. No. A1568); Lake Amistad Properties, Inc. (CCN No. 11090); Lake Ridge Estates (CCN No. 11113); Lake Ridge Water System (Reg. No. A1586); Langtry Water Supply Corporation (CCN No. 12500); Paynes Village Water Supply (Reg. No. 99212); Rough Canyon Marina, Inc. (CCN No. 12804); San Pedro Canyon Water Company (CCN No. 11089); and San Pedro Village (CCN No. 11088).

10) Adequacy of Boundary Description. The District's boundaries would be the same as the county boundaries of Val Verde County and form a closure. The District is located in Groundwater Management Area 7 designated by the Texas Water Development Board predominantly for the Edwards-Trinity (Plateau) aquifer. Val Verde County is not located within a Priority Groundwater Management Area designated by the TCEQ.

11) Comments on Powers /Duties Different from Similar Types of Districts. Unlike general law GCDs where directors are entitled to receive \$150 per day of service up to a maximum of \$9,000 per year, the directors of the District are not entitled to receive compensation for service. After the seventh year of operation, the District is required to maintain financial reserves of not less than six months and not more than two years of operating capital. If the financial reserves exceed this amount, the District must reduce taxes or perform a recharge project. Under Texas Water Code, Chapter 36, general law GCDs are not subject to this financial reserves limitation. Unlike general law GCDs, the temporary directors may attempt subsequent confirmation elections after a one-year time period should the voters initially oppose creation of the District.

Unlike general law GCDs, the District may not purchase, sell, transport or distribute surface water or groundwater for any purpose. Differing from the requirements of general law, the District is subject to more stringent requirements for cooperation with other groundwater districts within the same designated groundwater management area. These requirements include coordinating data collection, monitoring, and investigations; sharing data; and notification of detections of pollution.

Unlike general law GCDs, many specific regulatory goals, permitting provisions, groundwater production allowances, and permitting and fee exemptions have been provided or required in the bill. In general law GCDs, these types of goals and decisions are made at the discretion of a district's board of directors. Unlike general law GCDs, the bill requires the Texas Water Development Board (TWDB) to conduct a groundwater

study in the District within six months of the date the District is confirmed by the voters, and then conduct subsequent studies at least once every ten years or as considered necessary by the District board of directors to implement permitting. Further, the bill requires a local groundwater study within ten years to determine the City of Del Rio groundwater allocation. The bill also provides for a moratorium on transfer permits until the TWDB study is completed and the District has adopted rules.

The bill provides the Act would take effect immediately if passed by a two-thirds majority in each house. If passed otherwise, the Act would take effect September 1, 2005. The District would be dissolved on September 1, 2010, if it is not confirmed by the voters by this date, and the Act would likewise expire on September 1, 2010. The bill does not provide for Special District Local Laws Code, Chapter 8804 to expire should the District be dissolved.

12) TCEQ's Supervision-Same as for general law GCDs, including bond review authority. The TCEQ's supervision authority as it is related to the District's development and implementation of a groundwater district management plan would be the same as for general law GCDs. As with general law GCDs, the District would not have to comply with TCEQ financial auditing requirements.

13) State Water Plan Objectives- Water Use: Within Val Verde County, 92 percent of the total water use was groundwater in the year 2000. Ninety-four percent of the groundwater use was for municipal purposes. The proposed district would be partially located over the Edwards-Trinity Plateau. The county's total water use to be included in the 2007 State Water Plan is projected to grow from a year 2000 total of 19,388 acre feet of use to 20,793 acre feet of use in 2010.

Board staff finds that creation of the proposed district is not in conflict with the State Water Plan objectives of promoting the efficient use of local groundwater resources and the implementation of practices and programs to effectively manage local groundwater resources.

Source Agencies: 582 Commission on Environmental Quality, 580 Water Development Board

LBB Staff: JOB, WK

14

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 27, 2005

The Honorable Tom Craddick
Texas House of Representatives
Capitol Station
PO Box 2910
Austin, Texas 78768-2910

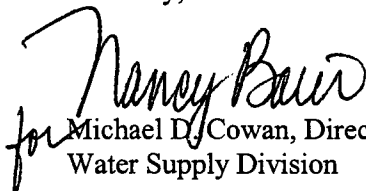
Re: Responsibility of the Texas Commission on Environmental Quality (TCEQ) Pursuant to Article XVI,
Section 59(d), Texas Constitution

HB 3484, as Filed by Representative Pete Gallego - Relating to the Creation, Administration, Powers,
Duties, Operation, and Financing of the Val Verde County Groundwater Conservation District

Dear Speaker Craddick:

The enclosed comments are provided pursuant to the Constitutional requirements referenced above. Under those requirements, the TCEQ must submit, to the Governor, Lieutenant Governor and Speaker of the House of Representatives, the TCEQ's recommendations on specific legislation affecting water districts. We recommend that these comments be considered in the evaluation of the proposed legislation.

Sincerely,


for Michael D. Cowan, Director
Water Supply Division

MDC/NB/kwm/ac

cc: The Honorable Robert Puente, Chairman, House Natural Resources Committee
The Honorable Pete Gallego, Texas House of Representatives

Enclosure

HB 3484, as Filed by Representative Pete Gallego
Texas Commission on Environmental Quality's Comments

Subject to a confirmation election, the bill creates the Val Verde County Groundwater Conservation District (District) providing for the powers, duties, administration, operations and financing of the District. The bill authorizes the District with specific powers and duties and with those of Texas Water Code, Chapter 36, related to the general law for Groundwater Conservation Districts (GCDs).

Purpose. Same as general law GCDs under Texas Water Code, Chapter 36, to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and to control subsidence caused by the withdrawal of groundwater. In addition, the District is specifically required and authorized to regulate the transport of groundwater out of the District and to maintain flow at San Felipe Springs. If passed, portions of the Act creating the District will be codified as Special District Local Laws Code, Chapter 8804.

Location & Size. The District's boundaries would be coextensive with the boundaries of Val Verde County.

Powers. Same as general law GCDs under Texas Water Code, Chapter 36; however, special district permitting powers and duties are provided related to permits for the transfer of groundwater; granting specific permits for in-district use to the City of Del Rio, nonprofit water suppliers, and cultivated agriculture users; providing exemptions from permitting for specific types of domestic, livestock, poultry, and existing agriculture wells; and providing exemptions for like-use replacement wells. The District is authorized to create a water conservation initiative under Tax Code, Section 11.32.

District Finances. Same as general law GCDs under Texas Water Code, Chapter 36, including issuance of bonds and notes; levying of maintenance tax; and, assessing of production fees, export fees, and administrative fees. District tax limitations are discussed under the Ability to Tax heading below.

Similar to general law GCDs, the District would be authorized to assess annual production fees on each well for which a permit is issued by the District. District production fees would be based on the size of the column pipe, the amount of water actually withdrawn from wells or the amount authorized to be withdrawn. The fees may not exceed \$0.25 per acre-foot for water used for agricultural purposes and \$0.0425 per 1,000 gallons of water used for any other purpose. Production fees may be increased at a cumulative rate not to exceed 3 percent per year. Under general law, annual production fees may not exceed \$1 per acre-foot for water used for agricultural purposes or \$10 per acre-foot for water used for any other purpose. Similar to general law GCDs, the District may assess an export fee for groundwater produced from a well for transport out of the district in addition to the production fee. Export fees may be assessed annually and used to pay the cost of district operations. The District may not assess a fee, except during a drought or other district emergency, on a well drilled by a nonprofit water supply corporation, water district, or other political subdivision if the well's production is for use within the District.

Board of Directors. The District would be governed by a board of seven elected permanent directors serving staggered four-year terms. Unlike general law GCDs, directors would be elected according to the commissioners precinct method with one director elected from each county commissioners precinct and three directors elected at-large. Temporary directors are appointed and are responsible for scheduling and conducting the District's confirmation election. Within 45 days of the effective date of the Act, four temporary directors are to be appointed by the Commissioners Court of Val Verde County to represent commissioners precincts, one temporary director is to be appointed by the County Judge of Val Verde County to represent the District at-large, and two temporary directors are to be appointed by the Del Rio City Council to represent the District at-large. At least one temporary director must represent each of rural water

supply, agriculture, industry, and municipal water supply interests. The temporary directors become the initial directors if the District is confirmed by the voters. After drawing lots to determine short- and long-terms, three initial directors would serve until the first permanent directors election in November of the first even-numbered year after the year in which the District is confirmed by election, and the other four initial directors would serve until the second permanent directors election in November of the second even-numbered year. The appropriate number of directors would then be elected in November of each subsequent second year. General law GCDs under Texas Water Code, Chapter 36, have 5 to 11 directors elected by the general precinct method. In some general law GCD creation cases, commissioners courts are provided 90 days to appoint temporary directors.

Eminent Domain. Unlike general law GCDs under Texas Water Code, Chapter 36, the District is not authorized to exercise the power of eminent domain.

Ability to Tax. Similar to general law GCDs under Texas Water Code, Chapter 36, the District is authorized to levy a maintenance tax and to levy a tax for the repayment of bonds or notes. Both types of taxes are subject to voter authorization. The District may not levy a tax that exceeds \$0.025 per \$100 assessed valuation during its first two years of operation, and may not levy a tax that exceeds \$0.05 per \$100 assessed valuation after the first two years. Under Texas Water Code, Chapter 36, the maintenance tax for general law GCDs may not exceed \$0.50 per \$100 assessed valuation and the tax rate for the repayment of bonds or notes is not limited.

Overlapping Services. There are no other GCDs in Val Verde County. The primary functions of GCDs are conservation and management of groundwater resources through data collection, rules and well permitting within their boundaries. These functions do not conflict with the services provided by the other water utilities or districts in the same area. The District's boundaries include the service areas of other water utilities and districts with Certificates of Convenience and Necessity (CCN). The other known water supply or sewer-service corporations, investor-owned utilities, or local water district or authorities in the District are: Val Verde County Water Control and Improvement District - Comstock (Reg. No. P0475); Del Rio Utilities Commission (CCN Nos. 11046 & 20420); Devils Shores Services, Inc. (CCN No. 12076); Devils Shores Water Supply Corporation (Reg. No. A1568); Lake Amistad Properties, Inc. (CCN No. 11090); Lake Ridge Estates (CCN No. 11113); Lake Ridge Water System (Reg. No. A1586); Langtry Water Supply Corporation (CCN No. 12500); Paynes Village Water Supply (Reg. No. 99212); Rough Canyon Marina, Inc. (CCN No. 12804); San Pedro Canyon Water Company (CCN No. 11089); and San Pedro Village (CCN No. 11088).

Ability to Exclude Territory. As with general law for GCDs, there are no provisions to exclude territory.

Adequacy of Boundary Description. The District's boundaries would be the same as the county boundaries of Val Verde County and form a closure. The District is located in Groundwater Management Area 7 designated by the Texas Water Development Board predominantly for the Edwards-Trinity (Plateau) aquifer. Val Verde County is not located within a Priority Groundwater Management Area designated by the TCEQ.

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H.B. No.

3484

A BILL TO BE ENTITLED
AN ACT

By

Pat R. Hall

relating to the creation, administration, powers, duties, operation, and financing of the Val Verde County
Groundwater Conservation District.

MAR 21 2005

Filed with the Chief Clerk

MAR 23 2005

Read first time and referred to Committee on **Natural Resources**

MAY - 2 2005

Reported favorably ()
(as substituted)

MAY 09 2005

Sent to Committee on (Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

Read third time, _____, and passed by a (viva voce vote)
(_____ yeas, _____ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)

05 MAY -7 AM 12:33

HOUSE OF REPRESENTATIVES